



HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on:23.03.2021

Order delivered on:07.06.2021

Writ Petition (Cr.) No.629 of 2020

Nitin Aryan @ Satish Kumar Sonwani, Son of Ramlal Sonwani, Aged about 25 years, Resident of – LIG/229, Niharika, P.S. Korba, Dist-Korba (CG)

---Petitioner

Versus

1. State of Chhattisgarh Through Secretary, Home Department, Mahanadi Bhawan, New Raipur, District-Raipur (CG)
2. State of Chhattisgarh Through-Ministry of Law, Mahanadi Bhawan, New Raipur, District-Raipur (CG)
3. The JMFC, Durg, District-Durg (CG)
4. Director General of Police, Police Head Quarter, Naya Raipur, District-Raipur (CG)
5. Superintendent of Central Jail, Durg, District-Durg (CG)

---Respondents

For Petitioner	:	Ms Reena Singh, Advocate
For Res.No.1,2,4 & 5/State:		Mr.Jitendra Pali, Dy.A.G.
Mr.Prasoon Agrawal, Advocate,		Amicus Curiae

Hon'ble Shri Justice Sanjay K. Agrawal

C.A.V. Order

1. This case was reserved for orders on 23.3.2021, but before order could be delivered, lockdown was clamped down by the District Collector w.e.f. 14.4.2021, consequently, this Court was also remain closed and during the continuance of lockdown followed by closure of this Court, the summer vacation stepped in w.e.f. 10.05.2021, therefore, this order is being pronounced today i.e. 7.6.2021 after re-opening of Court after summer vacation.



2. "Right to speedy trial may not be expressly guaranteed constitutional right in India, but it is implicit in right to fair trial which has been held to be part of right to life and liberty guaranteed by Article 21 of the Constitution."
3. The aforesaid statement of law was rendered by O. Chinnappa Reddy, J. speaking on behalf of the Supreme Court in the matter of T.V. Vatheeswarn v. State of Tamil Nadu¹ (para-19) *qua* right to speedy trial. Speedy trial is of the essence of criminal justice and there can be no doubt that delay in trial by itself constitutes denial of justice (please See Hussainara Khatoon and others (I) v. Home Secretary, State of Bihar².)
4. Complaining infringement of his right to speedy trial and consequent denial of justice, the petitioner herein has filed this writ petition stating inter-alia that he remained in jail for commission of offence under Sections 420/34 and 120B of the IPC from 14.5.2012 till the date of delivery of judgment i.e. 08.11.2016 i.e. 4 years, 6 months and 7 days, whereas he has been awarded sentence only for three years for offence under Section 420/34 of the IPC and three years for offence under Section 120B of the IPC and sentences have been

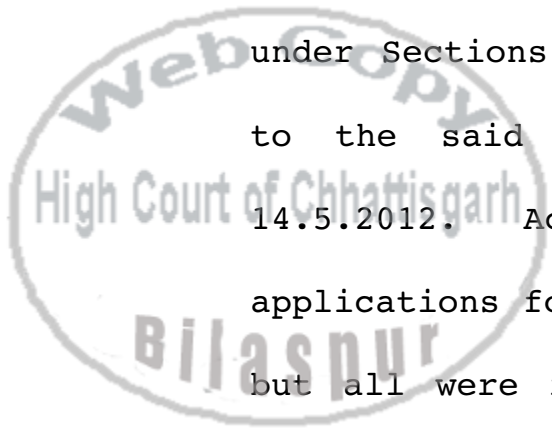
1 AIR 1979 SC 1360

2 (1980) 1 SCC 31



directed to run concurrently, as such, it is clear case where his constitutional right of speedy trial enshrined in Article 21 of the Constitution of India has admittedly been violated and for which he is entitled for appropriate compensation jointly and severally from the respondents herein on the following factual backdrops:-

4.1 The petitioner along with five other co-accused persons were charge-sheeted before jurisdictional criminal Court on 14.5.2012 for offences punishable under Sections 420/34 and 120B of the IPC and pursuant to the said offence, he was taken in custody on 14.5.2012. According to him, he made several applications for grant of regular bail up to this Court, but all were rejected, however, this Court also twice directed the trial Court on 22.4.2013 and 24.6.2014 to expedite the trial, but it could not yield any result and trial could not be expedited and concluded and the petitioner remain continued in jail, suffering as under-trial and ultimately, the trial Court by its judgment dated 8.11.2016 convicted the petitioner for offences under Sections 420/34 and 120B of the IPC and sentenced to undergo RI for three years and fine of Rs.300/- under Section 420/34 of the IPC and RI for three years and fine of Rs.200/- with default stipulation in case fine amount is not paid and also directed to run the





sentences concurrently.

4.2. Since the date of judgment i.e. 8.11.2016, the petitioner has already remained in jail for a period of 4 years, 6 months and 7 days and he was immediately released on 8.11.2016.

5. Now, it is the case of the petitioner in this writ petition that "right to speedy trial" is his fundamental right and on account of non-conclusion of trial within a reasonable time, the petitioner remained in jail for a period more than he has been sentenced now at the conclusion of trial, which is violative of his fundamental right as guaranteed under Article 21 of the Constitution of India and for which, he is entitled for compensation of ₹ 30 lacks for his said illegal detention for about 1 year, 6 months and 8 days jointly and severally from the respondents by granting the instant writ petition.

6. Return has been filed by the State stating inter-alia that the writ petition as framed and filed is not maintainable as the petitioner has been found to have involved in serious offence of cheating and he has been convicted for the aforesaid offences under Sections 420/34 and 120B of the IPC and the writ petition suffers from delay and laches and as such, the writ petition deserves to be dismissed. It has further been submitted



that no right of the petitioner has been violated and it has not been demonstrated by the petitioner that the trial could not be concluded at the earliest due to fault of the respondents. It has also been pleaded that detention of the petitioner was judicial custody in accordance with law and the procedure established by law, as such, the same cannot be termed as illegal detention. It has also been submitted that the petitioner seeking compensation by resorting to public law remedy will have to prove and establish that the constitutional mandate has been flouted high handedly and contrary to the provisions of the Constitution of India, as such, it is not the case of violation of Article 21 of the Constitution of India and the writ petition as framed and filed deserves to be dismissed. No rejoinder has been filed.

7. Ms Reena Singh, learned counsel for the petitioner, would submit that though the petitioner was convicted only for offences under Sections 420/34 and 120B of the IPC and sentenced to undergo RI for three years on each count and they were ordered to run concurrently, but the petitioner remained in jail for 4 years, 6 months and 7 days. In other words, he remained in jail for excess of 1 year, 6 months and 7 days over and above the period of sentence imposed upon him. She would further submit that even the petitioner was entitled to be released on bail



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on the basis of provisions of law laid down in Section 436A of the CrPC, as such, non-conclusion of trial within the stipulated time and detaining the petitioner in judicial custody for a period more than the sentence awarded is violative of his fundamental right guaranteed under Article 21 of the Constitution of India. To bolster his submission, she would rely upon the judgments of the Supreme Court in the matters of Rudul Sah v. State of Bihar³ and State of Rajasthan v. Mst.Vidhyawati and another⁴.

8. Mr. Praseon Agrawal, learned counsel appearing as Amicus Curiae, would submit that "right to speedy trial" is a fundamental right of an accused under Article 21 of the Constitution of India in view of landmark judgment of the Supreme Court in the matters of Smt. Meneka Gandhi v. Union of India and another⁵, Hussainara Khatoon (supra) and Abdul Rehman Antulay and others v. R.S. Nayak and another⁶. He would further submit that in Abdul Rahman Antulay (supra), their Lordships have laid down the guidelines with regard to speedy trial which has further been upheld in P. Ramchandra Rao v. State of Karnataka⁷, as such, the petitioner would be entitled for compensation as his fundamental right of speedy trial has been violated and he has been awarded sentence

3 AIR 1983 SC 1086

4 AIR 1962 SC 933

5 AIR 1978 SC 597

6 (1992) 1 Scc 225

7 (2002) 4 SCC 578



lesser than the period he had undergone as undertrial prisoner for the aforesaid offences.

9. Mr. Jitendra Pali, learned Deputy Advocate General for respondents No.1, 2, 4 and 5/State, would submit that the petitioner is not entitled for any compensation as his fundamental right of speedy trial has not been violated and he remained in judicial custody till the date of judgment for commission of offence which have been found proved by the trial Court. He would further submit that the petitioner has failed to demonstrate that it is fault of the prosecution for delay in concluding the trial and as such, the writ petition as framed and filed is not maintainable and liable to be dismissed.

10. I have heard learned counsel for the parties as well as learned Amicus Curiae, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

11. After hearing learned counsel for the parties and after going through the records the following questions emerge for consideration:-

(i) Whether "right to speedy trial" is a fundamental right guaranteed under Article 21 of the Constitution of India and whether the petitioner's fundamental right of speedy trial has been violated ?



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(ii) Whether the writ petition filed under Article 226 of the Constitution of India is appropriate remedy for grant of compensation to the petitioner for his alleged detention ?

(iii) Whether "right to life" is a fundamental right guaranteed under Article 21 of the Constitution of India ?

(iv) Whether the petitioner is entitled for compensation and quantum of compensation ?

Answer to question No.1:-

12. The Supreme Court in the matter of **Smt.Meneka Gandhi**

(supra) has held that State as a guardian of fundamental rights of people is duty-bound to ensure speedy trial and avoid any excessive delay in trial of criminal cases that could result in grave miscarriage of justice.

13. The Supreme Court in the matter of **Hussainara Khatoon**

(supra) has held that Article 21 confers a fundamental right on every person not to be deprived of his life or liberty except in accordance with the procedure prescribed by law and the procedure should be reasonable, fair and just. Exposition of Article 21 of the Constitution in **Hussainara Khatoon** (supra) was exhaustively considered by the Supreme Court in the matter of **Abdul Rehman Antulay** (supra) and held as under:-

"85. Another question seriously canvassed before us related to the consequence flowing



from an infringement of right to speedy trial. Counsel for accused argued on the basis of the observations in Sheela Barse⁸ and Strunk⁹ that the only consequence is quashing of charges and/or conviction, as the case may be. Normally, it may be so. But we do not think that that is the only order open to court. In a given case, the facts-including the nature of offence-may be such that quashing of charges may not be in the interest of justice. After all, every offence-more so economic offences, those relating to public officials and food adulteration-is an offence against society. It is really the society-the state-that prosecutes the offender. We may in this connection recall the observations of this Court in Champalal Punjaji Shah¹⁰. In cases, where quashing of charges/convictions may not be in the interest of justice, it shall be open to the court to pass such appropriate orders as may be deemed just in the circumstances of the case. Such orders may, for example, take the shape of order for expedition of trial and its conclusion within a particular prescribed period, reduction of sentence where the matter comes up after conclusion of trial and conviction, and so on."

14. The principle of law laid down by the Supreme Court in Abdul Rehman Antulay (supra) was further considered by the Supreme Court in the matter of P. Ramchandra Rao (supra) and it has been held as under:-

"29. For all the foregoing reasons, we are of the opinion that in Common Cause case (I) (as modified in Common Cause (II)) and Raj Deo Sharma (I) and (II) the Court could not have prescribed periods of limitation beyond which the trial of a criminal case or a criminal proceeding cannot continue and must mandatorily be closed followed by an order acquitting or discharging the accused. In conclusion we hold:-

(1) The dictum in A.R. Antulay's case is

8 (1986) 1 SCC 654

9 37 L Ed 2d 56

10 (1981) 3 SCC 610



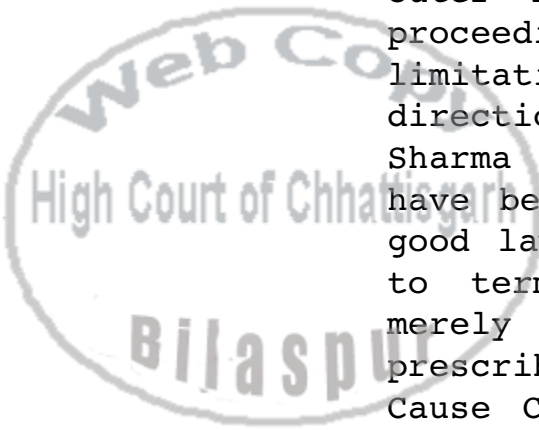
correct and still holds the field.

(2) The propositions emerging from Article 21 of the Constitution and expounding the right to speedy trial laid down as guidelines in A.R. Antulay's case, adequately take care of right to speedy trial. We uphold and re-affirm the said propositions.

(3) The guidelines laid down in A.R. Antulay's case are not exhaustive but only illustrative. They are not intended to operate as hard-and-fast rules or to be applied like a strait-jacket formula. Their applicability would depend on the fact-situation of each case. It is difficult to foresee all situations and no generalization can be made.

(4) It is neither advisable, nor feasible, nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. The time-limits or bars of limitation prescribed in the several directions made in Common Cause (I), Raj Deo Sharma (I) and Raj Deo Sharma (II) could not have been so prescribed or drawn and are not good law. The criminal courts are not obliged to terminate trial or criminal proceedings merely on account of lapse of time, as prescribed by the directions made in Common Cause Case (I), Raj Deo Sharma case (I) and (II). At the most the periods of time prescribed in those decisions can be taken by the courts seized of the trial or proceedings to act as reminders when they may be persuaded to apply their judicial mind to the facts and circumstances of the case before them and determine by taking into consideration the several relevant factors as pointed out in A.R. Antulay's case and decide whether the trial or proceedings have become so inordinately delayed as to be called oppressive and unwarranted. Such time-limits cannot and will not by themselves be treated by any court as a bar to further continuance of the trial or proceedings and as mandatorily obliging the court to terminate the same and acquit or discharge the accused.

(5) The criminal courts should exercise their available powers, such as those under Sections 309, 311 and 258 of Code of Criminal Procedure to effectuate the right to speedy trial. A





watchful and diligent trial judge can prove to be better protector of such right than any guidelines. In appropriate cases jurisdiction of High Court under Section 482 CrPC and Articles 226 and 227 of Constitution can be invoked seeking appropriate relief or suitable directions.

(6) This is an appropriate occasion to remind the Union of India and the State Governments of their constitutional obligation to strengthen the judiciary - quantitatively and qualitatively - by providing requisite funds, manpower and infrastructure. We hope and trust that the Governments shall act.

We answer the questions posed in the orders of reference dated 19-9-2000 and 26-4-2001 in the abovesaid terms."

15. The Supreme Court in the matter of Pankaj Kumar v. State of Maharashtra and others¹¹ has considered and reviewed all its judgments in Smt. Meneka Gandhi (supra), Hussainara Khaton (I) (supra), Abdul Rehman Antulay (supra), P. Ramchandra Rao (supra) and "Common Cause" a registered Society through its Director v. Union of India and others¹² and held that the right to speedy trial in all criminal prosecutions is an inalienable right under Article 21 of the Constitution. It was observed as under:-

"22. It is, therefore, well settled that the right to speedy trial in all criminal prosecutions is an inalienable right under Article 21 of the Constitution. This right is applicable not only to the actual proceedings in court but also includes within its sweep the preceding police investigations as well. The right to speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of cases.

11 (2008) 16 SCC 117

12 (1996) 4 SCC 33



23. In every case, where the right to speedy trial is alleged to have been infringed, the court has to perform the balancing act upon taking into consideration all the attendant circumstances, enumerated above, and determine in each case whether the right to speedy trial has been denied in a given case. Where the court comes to the conclusion that the right to speedy trial of an accused has been infringed, the charges or the conviction, as the case may be, may be quashed unless the court feels that having regard to the nature of offence and other relevant circumstances, quashing of proceedings may not be in the interest of justice. In such a situation, it is open to the court to make an appropriate order as it may deem just and equitable including fixation of time for conclusion of trial."

16. Thus, the principle of law flowing from the aforesaid judgments (supra), it has clearly been established that the right to speedy trial in criminal case is valuable and important right of the accused therein and its violation would result in denial of justice and that would result in grave miscarriage of justice.

Answer to question No.2:-

17. In this regard, learned counsel for the petitioner would rely upon Article 21 of the Constitution of India and would submit strenuously that the respondents, abusing their power conferred on them by the State, unlawfully detained the petitioner which resulted in infringement of his fundamental right to life guaranteed under Article 21 of the Constitution of India. She would further submit that the only proper and valid mode of redressal of his grievances



for the interference made to his right to life by the State/its authorities is award of monetary compensation and a claim in public law for compensation by the State for violation of his fundamental right and human right is maintainable. Therefore, respondent-State is liable to pay compensation for the act infringing his fundamental right guaranteed under the Constitution of India.

18. In the matter of Mst. Vidhyawati (supra), the Supreme Court has held the State of Rajasthan liable for compensation on account of rash and negligent driving of jeep owned and maintained by the State of Rajasthan and it has been held as under:-

"Now that we have by our constitution, established a Republican form of Government and one of the objectives is to establish a socialistic State with its varied industrial and other activities, employing a large army of servants, there is no justification, in principle or in public interest that the State should not be held liable vicariously for the tortuous act of its servant."

19. In the matter of Kasturi Lal v. State of U.P.¹³, the Supreme Court reiterated the old 'doctrine of crown immunity'. But, a three Judges Bench of the Supreme Court in the matter of Common Cause, a Registered Society (supra) (see paragraph 78) did not follow the decision rendered in Kasturi Lal (supra) and observed that the theory of sovereign power which was



propounded in Kasturi Lal (supra) is no longer available in a welfare State.

20. In the matter of Rudul Sah (supra), in a writ petition filed before the Supreme Court seeking compensation for illegal detention in jail for over 14 years, the Supreme Court has held that the only effective remedy open to the judiciary to prevent violation of the right guaranteed under Article 21 of the Constitution of India is payment of compensation under Article 32 of the Constitution of India and observed as under: -

"Although Article 32 cannot be used as a substitute for the enforcement of rights and obligations which can be enforced efficaciously through the ordinary processes of courts, such as money claims, the Supreme Court in exercise of its jurisdiction under this Article can pass an order for the payment of money if such an order is in the nature of compensation consequential upon the deprivation of a fundamental right.

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In these circumstances, the refusal of the Supreme Court to pass an order of compensation in favour of the petitioner will be doing mere lip- service to his fundamental right to liberty which the State Government has so grossly violated. Article 21 will be denuded of its significant content if the power of the Supreme Court were limited to passing orders of release from illegal detention. The only effective method open to the judiciary to prevent violation of that right and secure due compliance with Article 21, is to mulct its violators in the payment of monetary compensation. The right to compensation is thus some palliative for the unlawful acts of instrumentalities of the State. Therefore, the State must repair the damage done by its officers to the petitioner's rights. It may



have recourse against these officers."

21. Likewise, in the matter of Nilabati Behera v. State of Orissa¹⁴, the Supreme Court considered the question whether the constitutional remedy of compensation for infringement of fundamental right is distinct from and in addition to remedy in private law for damages and observed as under: -

"Award of compensation in a proceeding under Article 32 by the Supreme Court or by the High Court under Article 226 is a remedy available in public law, based on strict liability for contravention of fundamental rights to which the principle of sovereign immunity does not apply, even though it may be available as a defence in private law in an action based on tort. A claim in public law for compensation for contravention of human rights and fundamental freedoms, the protection of which is guaranteed in the Constitution, is an acknowledged remedy for enforcement and protection, of such rights, and such a claim based on strict liability made by resorting to a constitutional remedy provided for the enforcement of a fundamental right is distinct from, and in addition to, the remedy in private law for damages for the tort resulting from the contravention of the fundamental right."

22. In the matter of D.K. Basu v. State of West Bengal¹⁵, the Supreme Court has laid down certain principles to be followed in cases of arrest and detention.
23. Likewise, in the matter of Chairman, Railway Board and others v. Chandrima Das (Mrs) and others¹⁶, the Supreme Court has held that in case of violation of

14 (1993) 2 SCC 746

15 (1997) 1 SCC 416

16 (2000) 2 SCC 465



fundamental rights, the public law remedy would be available, and observed as under:-

"Where public functionaries are involved and matter relates to violation of fundamental rights or the enforcement of public duties, the remedy would still be available under the public law notwithstanding that a suit could be filed for damages under private law. The public law remedies have also been extended to the realm, and the court can award compensation to the petitioner who suffered personal injuries amounting to tortuous acts at the hands of officers of the Government."

24. The propositions laid down in Rudul Sah (supra) and Nilabati Behera (supra) have been followed in principle by their Lordships of the Supreme Court in P.A. Narayanan v. Union of India and others¹⁷, M.S. Grewal v. Deep Chand Sood¹⁸, Bhim Singh v. State of J&K and others¹⁹, Smt. Kumari v. State of Tamil Nadu and others²⁰, Saheli, a Womans Resources Centre v. Commissioner of Police²¹, Municipal Corporation of Delhi, Delhi v. Uphaar Tragedy Victims Association and others²² and Mehmood Nayyar Azam v. State of Chhattisgarh and others²³.

25. Thus, in light of the law laid down by their Lordships of the Supreme Court in above-quoted judgments, it is now well settled that this Court in exercise of jurisdiction under Article 226 of the Constitution of

17 AIR 1998 SC 1659

18 (2001) 8 SCC 151

19 AIR 1986 SC 494

20 AIR 1992 SC 2069

21 (1990) 1 SCC 422

22 (2011) 14 SCC 481

23 (2012) 8 SCC 1

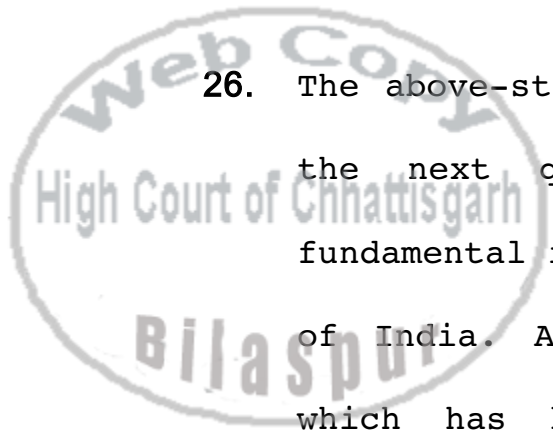


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India under public law, can consider and grant compensation to the victim(s) who has suffered infringement of fundamental right i.e. right to life and personal liberty guaranteed under Article 21 of the Constitution of India. This question is answered accordingly by holding that the present writ petition filed claiming compensation for infringement of fundamental right guaranteed under Article 21 of the Constitution of India, is maintainable.

Answer to question No.3:-

26. The above-stated determination brings me to advert to the next question whether right to life is a fundamental right under Article 21 of the Constitution of India. Article 21 of the Constitution of India which has been provided in Part-III, Fundamental Rights, provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. It is a principle which has been accepted, recognized and applied in all civilized countries including India. The object of Article 21 is to prevent interference in the personal liberty of citizens by the Executive save in accordance with law and in conformity with the provisions thereof and in accordance with the procedure established by law. Right to Life; personal liberty is one of the basic human rights and even the





State has no authority to violate that right. (See Siddharam Satlingappa Mhetre v. State of Maharashtra²⁴.) Right to move freely is an attribute of personal liberty. [See Maneka Gandhi (supra).]

27. Likewise, "Right to Life" set out in Article 21 of the Constitution of India means something more than mere survival or animal existence. (See State of Maharashtra v. Chandrabhan Tale²⁵.) This right also includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in different forms, freely moving about and mixing and commingling with fellow human beings. (See Francis Corallie Mullin v. Administrator, Union Territory of Delhi²⁶, Olga Tellis v. Bombay Municipal Corpn.²⁷ and Delhi Transport Corpn. v. D.T.C. Mazdoor Congress²⁸). In the matter of Kharak Singh v. State of U.P.²⁹, the Supreme Court has held that unwarranted domiciliary visit by the police can be held to be violative of Article 21. In Uphaar Tragedy Victims Association case (supra), the Supreme Court has observed that "Right to life" guaranteed

24 AIR 2011 SC 312

25 (1983) 3 SCC 387

26 (1981) 1 SCC 608

27 AIR 1986 SC 180 (paras 33 & 34)

28 AIR 1991 SC 101 (paras 223, 224 and 259)

29 AIR 1963 SC 1295



under Article 21 of the Constitution of India is the most sacred right preserved and protected under the Constitution, violation of which is always actionable and there is no necessity of statutory provision as such for preserving that right". Thus, it is implicit that right to life and liberty would include right to live with human dignity and any breach or violation of right to life would entail serious civil consequences and that would be actionable.

28. Therefore, it is well established by catena of decisions and above mentioned judgments of the Supreme Court that if the right guaranteed under Article 21 of the Constitution of India has been denied by illegal action of the State or its officers, the person concerned is entitled for compensation, though loss to personal liberty cannot be compensated in terms of money.

29. In conclusion, it is held that right to life is a fundamental right guaranteed under Article 21 of the Constitution of India and for its breach or violation, the petitioner is entitled for monetary compensation from the respondents who are responsible for its breach. It is held accordingly.

Answer to question No.4:-

30. In Hussainara Khatoon (supra) in which a large number



of under-trial had remained in custody for more period then they could have been convicted, even if the punishment could have been ordered to run concurrently, the Supreme Court held in para-2 of page 1819 of the judgment held as under:-

“Under trial prisoners who are accused of multiple offences and who have been detained for maximum term for which they could be sentenced on conviction, even if the sentence awarded to them were consecutive and not concurrent, should not be allowed to continue to remain in jail for a moment longer, since such continuance of detention would be clearly violative, not only of human dignity, but also of their fundamental right under Article 21 of the Constitution”

31. Thus, the Supreme Court has clearly held that that deprivation of right to life and liberty guaranteed under Article 21 of the Constitution is a serious matter and criticized the indifference and callousness of persons involved in the deprivation of right. An unauthorized detention of a person is against the realm of human dignity and continuance of such custody amounts to denial of justice.

32. The Patna High Court in the matter of **Vijay Kumar Gupta v. State and others**³⁰ has held that detention of a prisoner in custody in excess of the period that he has been sentenced infringes upon his fundamental right to life and liberty and as such, he is entitled for monetary compensation and further held that both the



prosecuting authority and Court remained oblivious of his continuous detention for more than a period, the sentence for any of the offence would have carried.

33. Similarly, in the matter of **Bhim Singh v. State of J&K and others**³¹ the Supreme Court awarded ₹ 50,000/- for illegal detention of Bhim Singh in police custody for a period of 4-5 days by way of monetary compensation.

34. Following the principles of law laid down in the above-referred judgments, reverting to the facts of the present case, it is quite vivid that the petitioner remained in jail as under-trial for a period of 4 years, 6 months and 7 days, whereas he has been awarded punishment of 3 years for offences under Section 420/34 and Section 120B of the IPC (separately) and both sentences to run concurrently, as such, he remained in jail in excess (one year and six months) for more than the sentence awarded by concerned trial Magistrate, on account of delay in conducting the trial, despite twice this Court while hearing bail applications on 22.4.2013 and 24.6.2014 directed the trial Magistrate to conclude the trial expeditiously, which was not taken cognizance of by the learned trial Magistrate by which the petitioner continued in jail for a period more than the actual sentence awarded violating the petitioner's right to speedy trial guaranteed under Article 21 of the

31 AIR 1986 SC 494



Constitution of India and for which he is entitled for monetary compensation.

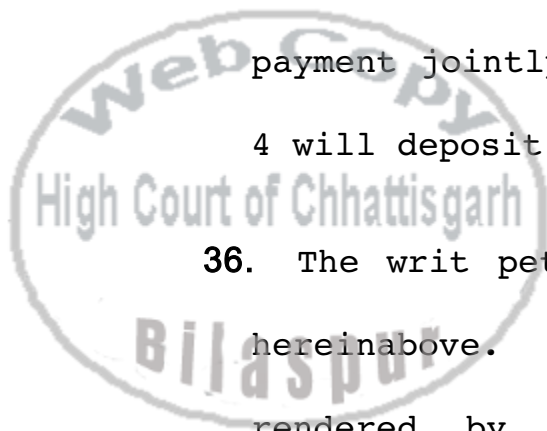
35. Now the question would be, what should be quantum of compensation, which the petitioner entitled for unlawful detention for a period of 18 months (i.e. 2015-16). It is stated at the Bar that by Governmental Notification, the monthly wages of Semi-Skilled labour in the year 2015-2016 was ₹10,400=00 per month, as such, the petitioner will be entitled for ₹10,400x18=1,87,200/- along with 6% interest from today till the date of payment jointly and severally which respondents No.2 and 4 will deposit within a period of 30 days from today.

36. The writ petition is allowed to the extent indicated hereinabove. This Court appreciates the assistance rendered by Mr.Prasoon Agrawal, Advocate / Amicus Curiae.

Sd/-

(Sanjay K. Agrawal)
Judge

B/-





23

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (Cr.) No.629 of 2020

Petitioner

Nitin Aryan @ Satish Kumar
Sonwani

Versus

Respondents

State of Chhattisgarh and
others

Head-note

(English)

Right to speedy trial is implicit in right to fair trial, which is part of right to life under Article 21 of the Constitution of India.

(हिन्दी)

शीघ्र विचारण का अधिकार, ऋजु विचारण के अधिकार में अंतर्निहित है, जो कि भारतीय संविधान के अनुच्छेद 21 के अधीन जीने के अधिकार का अंग है।

